

Review of the Americans with Disabilities Act As it Pertains to the Mandatory Use of Facemasks

The **American with Disabilities Act** (ADA) protects “disabled” persons from being denied access to “Public Accommodations and Services Operated by Private Entities.” This means that private businesses that offer their products and services to the general public may not deny access to their businesses to persons who are “disabled.”

These “private entities” (i.e. private businesses) that are legally defined as “Public Accommodations and Services,” are listed in Subchapter III, Section 12181 (7)(A-L) of the ADA, and include things like: restaurants, movie theaters, grocery stores, banks, schools, spas, gyms, etc. Essentially all retail businesses and professional services are included in this definition.

Furthermore, the legal definition of a “disability” according to the ADA, Section 12102, 1(A), means: “a physical or mental impairment that substantially limits one or more major life activities of such individual.”

By this legal definition of “disability,” according to the ADA, the *mental impairment* caused by the feelings of anxiety, claustrophobia, anxiety, or any such like, is a *disability* and is protected by the ADA. Additionally, and particularly, any mental or physical condition which impairs “respiratory function” is considered a legal “disability” as specifically noted in Section 12102, 2(B)(1).

While some may object to these definitions, they have already been confirmed in US Law (by the Americans with Disabilities Act), and have been established by precedent(s) set by case law over the last 3 decades. Additionally, in regards to defining “disability” as it pertains to the ADA, the law itself very specifically gives the following instructions regarding how to interpret or classify a “disability” for legal purposes:

Section 12102, 4(1)(A) *The definition of “disability” in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.*

This means that when attempting to define “disability” legally, according to the terms laid out in the ADA, one should not try to *limit* the application of the term, but rather should use the *broadest means possible* to define and apply the use of the term. Therefore, any attempt to restrict the application of the term “disability” to NOT APPLY to persons with mental or physical conditions that would prevent them from wearing a facemask, is an affront and violation to the letter of the law in the ADA.

In short, according to the Americans with Disabilities Act, any American who suffers from anxiety, feelings of claustrophobia, fear, panic, phobias, or has difficulty breathing with a face mask, may not be compelled to wear a face mask by any public or private entity in the United States.